

Appl. No. 10/668,541
Docket No. 14XT00219/135960/GEM-0127

REMARKS / ARGUMENTS

Status of Claims

Claims 1-39 are pending in the application and stand rejected. Applicant has canceled Claim 24, amended Claims 1, 36 and 38, and added new Claim 40, leaving Claims 1-23 and 25-40 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(e), have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(e)

Claims 1-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Hansen et al. (U.S. Patent No. 6,556,654 B1, hereinafter Hansen).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Applicant has amended independent Claims 1, 36 and 38 to now include, inter alia, the limitation of the *outside of the vacuum evacuated body being subjected to atmospheric pressure and ambient air*. No new matter has been added as antecedent

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support may be found in the application as originally filed, such as at Paragraph [0024] for example.

Dependent claims inherit all of the limitations of the respective parent claim.

In comparing Hansen with the instant invention, Applicant finds Hansen to be missing the element of the *outside of the vacuum evacuated body being subjected to atmospheric pressure and ambient air*.

More specifically, at Figure 1 and at column 7 lines 14-41, Applicant finds Hansen to disclose the vacuum evacuated body 22 disposed within outer housing 21.

At column 10 lines 36-40, Applicant finds Hansen to disclose the interior of housing 21 to be at an elevated temperature above ambient as a result of heating from operation of the x-ray tube.

Accordingly, Applicant submits that Hansen discloses the outside of the vacuum evacuated body being subjected to a pressure and air *other than* atmospheric pressure and ambient air, and therefore necessarily cannot disclose the *outside of the vacuum evacuated body being subjected to atmospheric pressure and ambient air*, which is specifically claimed for in the instant invention.

Absent anticipatory disclosure in Hansen of *each and every element of the claimed invention arranged as claimed*, Hansen cannot be anticipatory.

In view of the amendment and foregoing remarks, Applicant submits that Hansen does not disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §102(e) has been traversed, and requests that the Examiner reconsider and withdraw of this rejection.

Regarding New Claim 40

Applicant has added new Claim 40, which is dependent from Claim 1, and is directed to additional subject matter disclosed but not claimed. No new matter has been added as antecedent support may be found in the specification as originally filed, such as at Paragraph [0021] for example.

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For at least the reasons set forth above regarding Claim 1, Applicant submits that new Claim 40 is directed to allowable subject matter, and respectfully requests entry and notice of allowance thereof.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 50-2513.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,

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